IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1566 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHCHANDRA POPATALAL MEHTA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 1566 of 1995

MR SURESH M SHAH for Petitioner No. 1

MRS HANSA PUNANI, APP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE R.P.DHOLAKIA

Date of decision: 11/09/2003

ORAL JUDGEMENT

Heard learned counsel for the petitioner, Mr.Suresh M.Shah and learned APP, Mrs.Hansa Punani for

the respondent.

2. A complaint was filed by one Manojbhai Balvantbhai Thakkar against the petitioner-original accused No.1 directly into 'B' Division Police Station, Jamnagar on 13-4-1995 which has been registered as C.R.No.39 of 1995 and police started investigation. During the course of investigation, present petitioner has preferred present petition in the year 1995 under Sec.482 of the Code of Criminal Procedure wherein this Court (Coram: R.R.Jain,J., as he then was) vide order dated 28-2-1996 made clear that "it is further clarified that investigating agency would be at liberty to record statement of the petitioner and it is understood that the petitioner would fully co-operate with the investigation. It is further clarified that meanwhile, the petitioner shall not be arrested or charge-sheeted. The report to be placed on record of this Court." In pursuance of that, permission was granted by the Court to the I.O. to proceed further with the matter and submit the report as directed by the Court vide order dated 29-4-1996 which is part of record. However, somehow or the other, when the matter came up for hearing before Hon'ble the Chief Justice on 7-3-2003, it was not brought to the notice and, therefore, matter was adjourned just to enable learned A.P.P. to submit a report about the investigation. In fact, report in question was on record at the relevant time but same was not noticed by learned A.P.P., Mr.Pujari. This fact was made clear by this Court on last adjournment i.e. on 29-8-2003 when I.O. was also present in the Court.

3. In these circumstances, now when the report is already submitted by the investigating agency, I.O. is at liberty to proceed further with the matter and at the end of investigation submit the report either 'A' or 'B' or 'C' summary. If the report of I.O. is against the interest of present petitioner, then petitioner is at liberty to approach either the court below or this Court under the relevant provisions of law and in that event, the Court shall decide the same on merits irrespective of the disposal of the present petition. Petitioner is at liberty to take all the contentions raised here. This petition stands disposed of with the aforesaid observation and direction. Rule is discharged. Interim relief stands vacated.

(R.P.DHOLAKIA,J.)

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